

REMARKS

This application has been reviewed in light of the Office Action dated May 1, 2007. Claims 2-7, 16-13, and 20 are presented for examination. Claims 8-15, 17-19, and 21-36 have been withdrawn. Claim 1, the only independent claim, has been amended to define still more clearly what Applicant regards as his invention. Favorable reconsideration is requested. The canceled claims will not be further addressed herein.

The Examiner rejected pending claims 2-7, 16-13, and 20 under the judicially-created doctrine of obviousness-type double patenting as unpatentable over claims 1-20 of U.S. Patent No. 6,663,632. In response, Applicant submits herewith, under separate cover, a Terminal Disclaimer under 37 CFR 1.321(c). Applicant's response is made only to expedite prosecution of the present application and does not constitute acquiescence in the Examiner's rejection. Applicant submits that the timely-filed Terminal Disclaimer obviates the present double patenting.

Claims 2-7, 13-16 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,029,091 (von Bezold et al.).

As shown above, Applicant has amended independent claim 1 in terms that more clearly define what he regards as his invention. Applicant submits that this amended independent claim, together with the remaining claims dependent thereon, are patentably distinct from the cited prior art for at least the following reasons.

The aspect of the present invention set forth in claim 1 is an implant comprising at least one coupler having at least two connecting elements for engaging a first member to a second member. The connecting elements permit the first member to rotate with respect to the second member. Further, the connecting elements are pins that are pivot-mounted in the first member and second member.

Von Bezold et al., as understood by Applicant, relates to an osteosynthesis plate for application to a fractured bone. The osteosynthesis plate is an elongated having a body 10 where at least one screw hole of the plate are formed in lugs 14 which are separated by a gap 16 from the body 10 of the plate. (See column 1, lines 44-58). Each lug is connected to the body by a rod-like connection or cantilever element 18 which is separated from the body 10a

by an extension of the gap 16. As shown in Figure 2, the lugs 14 are supported on opposite sides by intergral connecting members 18a and 18b. The connecting members 18a and 18b are curved to provide a spring-like elastic suspension and some freedom of movement of the respective lug. (See column 3, lines 9-13). As is evident from the description and Figure 2 of von Bezold et al., the connecting members 18a and 18b are not pins that are pivot-mounted in the first member and second member as the connecting elements of claim 1 recites.

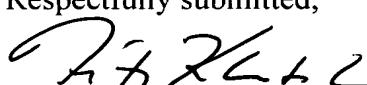
Accordingly, Applicant submit that claim 1 is not anticipated by von Bezold et al., and respectfully request withdrawal of the rejection under 35 U.S.C. § 102(b).

The other claims in this application are each dependent from independent claim 1 discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application. Should the Examiner have any questions or comments concerning this submission, he is invited to call the undersigned at the phone number identified below.

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Respectfully submitted,



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